



## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

- ☐ CENTRAL, P.O. BOX 120128, 330 W. BROADWAY, SAN DIEGO, CA 92112-0128, (619) 615-6358
- ☐ NORTH COUNTY, 325 S. MELROSE DR., VISTA, CA 92083-6634, (760) 726-9595
- ☐ EAST COUNTY, 250 E. MAIN ST., EL CAJON, CA 92020-3941, (619) 441-4461
- ☐ RAMONA, 1428 MONTECITO RD., RAMONA, CA 92065-5200, (760) 738-2435
- ☐ SOUTH COUNTY, 500 3RD AVE., CHULA VISTA, CA 91910-5649, (619) 691-4439

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## UNLAWFUL DETAINER COMPLAINT PACKET

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This packet contains most of forms that are used in an unlawful detainer matter and a brief description of the steps involved in the process.

Please be advised that court employees may not give legal advice.

It is recommended that you seek legal advice or do your own legal research if you are not familiar with this legal process.

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### Forms

This packet contains the following forms.

| FORM NAME                                  | FORM #   | Number of copies |
|--|----------|------------------|
| Civil Case Cover Sheet                     | CIV 51   | 1                |
| Complaint – Unlawful Detainer              | CIV 224  | 3                |
| Summons – Unlawful Detainer                | CIV 219A | 3                |
| Prejudgment Claim of Right to Possession   | CIV-205  | 1                |
| Request to Enter Default                   | CIV 204  | 3                |
| At Issue Memorandum (Unlawful Detainer)    | CIV 89   | 3                |
| Memorandum of Costs                        | CIV 139  | 3                |
| Judgment – Unlawful Detainer               | CIV 185  | 2                |
| Request for Dismissal                      | CIV 53   | 2                |
| Writ of Execution                          | CIV 262  | 3                |
| Sheriff's Instructions for Process of Writ | C-1 Man  | 1                |

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### Costs

Court filing fees in processing the Unlawful Detainer.

| Action   | Fees    |
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| Unlawful Detainer packet                         | \$ 2.50 |
| Filing the complaint – Demand LESS than \$10,000 | 122.30  |
| Demand OVER \$10,000 (but less than \$25,000)    | 130.00  |
| Issuing Writ of Execution                        | 7.00    |
| Sheriff's fee to execute writ & perform eviction | 75.00   |
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### Copies for Your Records

If you would like the clerk to file stamp copies of documents for your records, please provide additional copies at the time you submit your documents for filing.

**Completing  
Forms**

All sections completed on the forms must be typed or printed in blue-black or black ink.

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**Key Terms and  
Definitions**

Common definitions used in an Unlawful Detainer case include:

| Term      | Definition   |
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| Answer    | A principal pleading made by the defendant in response to the complaint.   |
| Complaint | The lawsuit filed in the court.  |
| Default   | Failure of a party in a lawsuit to defend or to follow proper procedure to prevent entry of a judgment against them.   |
| Defendant | The party or person responding to the complaint; the one who is sued and called upon to make satisfaction for a wrong complained of by another.  |
| Judgment  | The official decision of the Court stating which party won and the terms of the decision.  |
| Plaintiff | The party that files the complaint, and seeks remedy in a court of justice.  |
| Service   | The delivery of the Summons and Complaint to the party named as the defendant on the filing.<br>Note: Service must be made by a person who is over 18 years of age and not a party to the lawsuit. |
| Writ      | A court order authorizing the Sheriff to enforce and satisfy the court judgment.   |

**Court Process**

These are the key steps in the Unlawful Detainer process.

| STEPS                | ACTION   |
|----------------------|--|
| Filing the Complaint | <p>Complete one original and one copy of the:</p> <ol style="list-style-type: none"><li>1. Complaint – Unlawful Detainer</li><li>2. Summons – If you have more than one defendant you will need an additional copy for each defendant.</li><li>3. Civil Case Cover Sheet – Complete one original to be filed with the original complaint.</li></ol> <p>Either “Amount demanded exceeds \$10,000” or “Amount demanded does not exceed \$10,000” must appear on the face of the complaint under the caption.</p> <p>Present your complaint and summons along with the proper filing fee to the clerk in the appropriate business office for processing. The summons and complaint will be given a case number. The court will keep the original complaint and return the original summons and copies of the complaint to you. You may need to make additional copies for service if you have multiple defendants. You may also wish to keep a copy for your records.</p> |

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| Service on the Defendant               | <p>Each defendant must be served with a copy of the complaint and summons. Service may be performed by the Sheriff, a registered process server, or any person over the age of 18 years who is not a party to the action. The Sheriff's fee for service is approximately \$ 28.00.</p> <p>DO NOT SERVE THE ORIGINAL SUMMONS. (The original summons is the one signed by the clerk.) The original summons must be filed with the court along with your original proof of service <u>after</u> service on the defendant(s) is completed.</p>   |
| Answer by Defendant                    | <p>If the defendant files an answer to your complaint, the case will be set for trial. To request a trial date you must:</p> <ol style="list-style-type: none"> <li>1. Complete the form <u>At Issue Memorandum (Unlawful Detainer)</u></li> <li>2. Prepare the original and one copy to be mailed to each defendant that has filed an answer.</li> <li>3. A copy must be mailed to each answering defendant by someone <u>not</u> a party to the lawsuit. The person doing the mailing must complete the Certificate of Service by Mail on the back of the form.</li> <li>4. Submit the original and one copy (if you want a copy filed stamped and returned to you) to the clerk for processing. The Certificate of Service by Mail must be completed on the back of the form <u>before</u> filing with the clerk.</li> </ol> <p>All parties will be notified by mail of the trial date and time. Trial dates will be set within 20 days from the date the At Issue Memorandum is filed.</p> |
| Judgment After Trial                   | <p>The party that prevails at the trial must prepare the judgment form.</p> <p>?? Complete judgment form (CIV-185)</p> <p>?? Submit the form Memorandum of Costs if not previously submitted. This form is required if costs were claimed and awarded in the judgment.</p>   |
| Default & Judgment for Possession Only | <p>If the defendant does NOT file an answer to the complaint after being served, you may request a default judgment against them.</p> <ol style="list-style-type: none"> <li>1. Complete an original and one copy of the form Request to Enter Default.</li> <li>2. Mail a copy of this form to each defendant that is being defaulted.</li> <li>3. Submit for filing to the clerk:<br/>The <i>original</i> Request to Enter Default , <i>original</i> proof of service for each defendant served, the <i>original</i> summons signed by the clerk, and completed Judgment form (CIV-185) for the Clerk's judgment for possession only.</li> </ol> <p>You may also complete a Writ of Execution form and submit this with the default judgment forms.</p> <p><i>Note: Forms to obtain a money judgment after the defendant(s) have vacated the premises are not provided in this packet. Contact the appropriate civil business office for the forms.</i></p>                                  |
| Writ of Execution                      | <ol style="list-style-type: none"> <li>1. Complete the form Writ of Execution; be sure to complete item #9 on the back of the form with the property information.</li> <li>2. Complete the Sheriff's instruction sheet for execution of the writ.</li> <li>3. Submit completed forms to the clerk with the filing fees:<br/>\$ 7.00 payable to "Superior Court" for the issuance of the writ.<br/>\$ 75.00 payable to the "Sheriff" if you want the clerk to send the writ to the Sheriff's Office after issuance.</li> </ol> <p><i>Note: You also have the option of delivering the issued writ to the Sheriff's Office yourself.</i></p>   |

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| Dismissal         | <p>If the defendant(s) vacate the premises or you decide not to proceed to judgment or trial, you must file a dismissal of the action to close out or dispose of your case.</p> <ol style="list-style-type: none"> <li>1. Complete an original and one copy of the form Request for Dismissal.</li> <li>2. Submit both of the forms to the clerk with a self-addressed envelope with sufficient postage.</li> <li>3. The clerk will enter the dismissal and return a conformed, file-stamped copy to you.</li> </ol> <p>NOTE: Within 45 days after the unlawful detainer case has been filed, a judgment or dismissal must be entered or the case will be placed on calendar for a hearing to show cause why the case should not be dismissed for lack of prosecution.</p> |
| Other Information | <p>Before a case can be set for trial or hearing, all defendants in the lawsuit must be accounted for. [Answer, dismissal, or default]</p> <p>The writ of execution for possession will not issue until the judgment has been entered.</p> <p>If you are requesting a file-stamped copy of any document submitted, you must provide the clerk with a self-addressed envelope with sufficient postage.</p>  |